



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/114,027	07/10/1998	CAROLINE M. YLITALO	53092USA8A	8735

7590

12/04/2001

PHILIP Y DAHL  
3M OFFICE OF INTELL PROPERTY COUNSEL  
P O BOX 33427  
ST PAUL, MN 551333427

EXAMINER

ZIRKER, DANIEL R

ART UNIT

PAPER NUMBER

1771

18

DATE MAILED: 12/04/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

<i>Office Action Summary</i>	Application No.	Applicant(s)	
	Examiner	Group Art Unit	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- ☒ Responsive to communication(s) filed on 7/30/01
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

**Disposition of Claims**

- ☒ Claim(s) 1-20 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-20 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119 (a)-(d)**

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

**Attachment(s)**

- |  |   |
|--|---|
| <input type="checkbox"/> Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ | <input type="checkbox"/> Interview Summary, PTO-413                     |
| <input type="checkbox"/> Notice of Reference(s) Cited, PTO-892                             | <input type="checkbox"/> Notice of Informal Patent Application, PTO-152 |
| <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review, PTO-948           | <input type="checkbox"/> Other _____                                    |

**Office Action Summary**

Art Unit 1771

1. Claims 1, 2, 7-10, 15 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either J.P. Derwent Abstracts -059 or -060, substantially for the reasons set forth in paragraph No. 2 of Paper No. 16, together with the following additional observations. More particularly, the Examiner notes that applicants' traversal of the rejection appears to be identical with paragraph Nos. 2-5 of their response submitted January 26, 2001. The Examiner did not find their rationale convincing at the time, and for the same reasons set forth at that time their arguments are again found to be non-convincing. Should applicants believe that the Examiner's analysis is incorrect, the Examiner believes that since this is the second RCE application filed in the present case without success, it might be more desirable for applicants to take their case to the Board of Appeals, assuming that they are indeed convinced of the correctness of their arguments.

2. Claims 3-6, 11-14 and 17-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over J.P. Derwent Abstracts -059 or -060, each taken in view of Kiefer, substantially for reasons of record. More particularly, applicants again traverse the Examiner's rationale for the motivation for the combination of the two Abstracts with the secondary reference Kiefer. However, they have yet to rebut or even contest by specific arguments the rationale originally set forth by the Examiner

Art Unit 1771

regarding motivation for the combination found in paragraph No. 6 of Paper No. 5. The Examiner believes that their arguments for traversing the combination are much narrower than the scope of their claims as well as the scope of the relied upon references. Finally, as above, the Examiner believes that if applicants firmly believe in their arguments which have been presented throughout the prosecution file as well as in their latest response, it is strongly suggested that they present their arguments to the Board of Appeals.

3. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner

Serial No. 09/114,027

-4-

Art Unit 1771

can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

December 3, 2001.

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1568  
1700

*Daniel Zirker*